IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 1375 OF 2005

Ramchandra Jivaji Deodhar .... Appellants
since deceased through his L/R
Smt. Shakuntalabai R. Deodhar
& Others.

Vs.

Pune Municipal Corporation .... Respondents
and others.

Mr. S.G. Deshmukh for the Appellants.

CORAM : D.B. BHOSALE, J.
DATE : 4TH JULY, 2007

P.C.

1) This Second Appeal is directed against concurrent findings recorded by the Courts below by which a suit for declaration and perpetual injunction restraining the Respondent- Corporation from recovering tax of the premises in his possession has been dismissed. Mr. Deshmukh, learned Counsel for the Appellant, submitted that the Corporation cannot recover the property taxes from the appellant directly, he being a tenant. In support of this contention, he placed reliance upon the provisions of Section 139(1) of the Bombay Provincial Municipal Corporation Act, 1949. He further submitted that in any case the Appellant-

plaintiff is liable to pay tax referable to the rent, that he is liable to pay, and not referable to the area in his occupation.

2) I perused the judgments of the Courts below. It appears that the developer had given No Objection for recording the name of the appellant in the Tax Register of P.M.C. as tenant- occupier. It further appears that there is a compromise decree which was produced on record at Exhibit 64 and under that decree the tenant had elected to be treated as tenant-occupier. His rent liability @ Rs.77/- per month, under the compromise decree, remained unchanged. As per Para Nos. 7 and 8 of the Compromise Decree at Exhibit 64, the tax liability in respect of the premises in his possession is undertaken by the tenant himself. A mere perusal of the compromise decree, it is clear that proportionate tax is explicitly meant for the area occupied by the tenant and not referable to the rent. The Appellate Court, for the reasons recorded in Paragraph Nos. 18, 19 and 21, has rightly negatived the contention of the Appellant and dismissed the appeal.

3) Considering the findings of fact recorded by the Courts below and as I find sufficient

material on record to sustain those findings and considering extremely limited jurisdiction of this Court to disturb the findings of fact in the second appeal, this appeal deserves to be dismissed. Order accordingly.

(D.B. BHOSALE, J.)